REMARKS

Reconsideration of this application is respectfully requested. The following remarks are responsive to the Office Action of April 22, 2004. Claims 1-3, 11, and 13-14 remain in the application. Claims 4-9, 12, and 15-23 are cancelled. Claims 24-28 are new. In consideration of the current amendments and remarks set out below, it is respectfully requested the rejections based on 35 USC § 112 be removed. Accordingly, no new matter is added.

35 USC § 112

The Office Action has alleged claim 1 contains subject matter that was not described in the specification in such a way as to reasonably convey to one skilled I the relevant art that the inventor, at eth time the application was filed, had possession of the claimed invention. Specifically, the rejections directed to "TDM data frame comprises a payload field and a destination field," "writing contents included within the payload field of the TDM data frame to a first field in an Ethernet frame," and "writing contents included within the destination field of the TDM data frame to a second field in the Ethernet frame." Claims 1 and 10 have been amended to substantially recite the TDM data frame is comprised of TDM data and transmission information and not, "a payload field" and "a destination field" as previously recited. In other words, in one embodiment, the "payload field" and "destination field" are fields of the Ethernet frame and not the TDM frame. Support for this feature may be found in paragraph 8 and paragraph 13 of the specification as filed, and figure 7 included in the amendment filed November 11, 2002. Accordingly, it is respectfully requested this rejection be removed.

The Office Action has further alleged claims 1-4, 6-7, 9-11, and 13-23 stand rejected for failing to comply with the enablement requirement of § 112. Specifically, that the subject matter pertaining to the TDM frame data fields, TDM block identification, double buffering, and data insertion timing. The rejection pertaining to the TDM frame data fields has been addressed in the amendment described above with

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respect to the "payload field" and the "destination field" being part of the Ethernet frame and not the TDM frame. Therefore, it is respectfully requested this rejection be removed.

The enablement requirement does not require an applicant to disclose the invention in a manner that can be understood by a child. The CCPA has stated, "not every last detail is to be described, else patent specifications would turn into production specifications, which they were never intended to be." (In re Gay, 309 F. 2d 769, 135 USPQ 311, 316 (C.C.P.A. 1976)). Specifications "need only be reasonable with respect to the art involved; they need not inform the layman nor disclose what the skilled already possess. They need not describe the conventional. ...The intricacies need not be detailed ad absurdum." (General Elec. Co. v. Brenner, 407 F. 2d 1258, 159 USPQ 335, 337 (D.C. Cir. 1968). Additionally, enablement under the first paragraph of §112 may be satisfied using information found the prior art (In re Howarth, 654 F. 2d 103, 210 USPQ 689 (C.C.P.A. 1981)).

The Office Action alleges TDM block information is not properly taught. Specifically the Office Action states, "It is not clear if the TDM block information is extracted from the stream or derived using other necessary information such as port number, etc., and it is also not clear what is the identity of block information; is it a sequence number, time slot number, destination ID, port number, type of data...." However, it is respectfully asserted that the method of extracting such information and the range of its "identities" is well known to any person skilled in the art for which the invention pertains and therefore need not be described and detailed ad absurdum.

Similarly, double buffering and the data insertion timing is well known to any person skilled in the art for which the invention pertains. The district court has held that functional language may be sufficient to enable a specification when one skilled in the relevant art would understand what is intended and know how to carry it out (In re Hayes Microcomputer Prods. Inc. 982 F. 2d 1527, 25 USPQ 2d 1241 (Fed. Cir. 1992)). The feature of double buffering and "time to insert data" as functionally described in the specification is simply a design choice to be determined by a person skilled in the relevant art and that person would understand what is intended and know how to carry it

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out. For example, the Examiner has pointed out the timing parameter may be a timestamp, sequence number, delay parameter, etc., further indicating one skilled in the relevant art would understand what is intended and how to carry it out. Therefore, it is respectfully requested these rejections be removed.

Regarding the inquiry of the Office Action about if a whole frame (TDM) is put into the packet (Ethernet). Support may be found in the specification as filed at paragraph 0008 reads, "In an embodiment, the packetizing step 10 can include writing a TDM frame into a first field in the Ethernet frame (e.g., the payload field) and...." Accordingly, it is respectfully requested this rejection be removed.
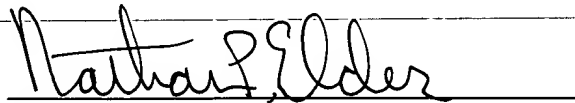
The § 112 second paragraph rejections set forth in sections 4 and 5 of the Office Action have been addressed in the present amendments to the claims. Accordingly, it is respectfully requested these rejections be removed.

If there are any additional charges, please charge Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: 8-23 , 2004   _Nathan P. Elder_

Nathan P. Elder
Reg. No. 55,150

12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025
(408) 947-8200

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